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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

# CITY OF CLEVELAND,

Plaintiff,

No. 2:23-cv-01713

V.

HYUNDAI MOTOR AMERICA and  
KIA AMERICA, INC.,

## COMPLAINT

## JURY TRIAL DEMANDED

## Defendants.

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## I. INTRODUCTION

1. There is an inextricable link between preventing vehicle theft and protecting public safety. Making sure cars are not easy to steal both protects property and protects the public by keeping dangerous drivers in stolen vehicles off the roads. This case is a clear example of what happens to public safety when car manufacturers cannot be bothered to include standard anti-theft technology in their cars.

2. The days of “hotwiring” cars with nothing more than a screwdriver are largely over: in most cars, the ignition key emits a radio signal that prompts a computer to disengage an immobilizer device and allows the car to move when the key is present. But recent Hyundai and Kia models are a glaring exception.

3. Between 2011 and 2021, long after other carmakers adopted immobilizer technology that ensured car ignitions could not be started without their keys, Defendants Hyundai Motor America and Kia America, Inc. (collectively, “Defendants”) failed to keep up with the times. As a result, TikTok and news videos teaching the relative ease with which Hyundai and Kia vehicles can be stolen have gone viral. In many cases, thieves use tools no more advanced than a USB cable. Hyundai and Kia’s business decisions to reduce costs, and thereby boost profits, by foregoing common anti-theft technology have resulted in an epidemic of thefts. This vehicular crime wave has had a significant impact on law

1 enforcement operations, emergency services, and public safety, particularly in the  
2 City of Cleveland, where the police department is under considerable staffing  
3 stress.

4       4. In the 1960s and 1970s, all that was needed for a successful vehicle  
5 heist was a little brute force (to crack open the ignition column) and a key-shaped  
6 object to start the car and drive off within seconds. Thanks to modern technology,  
7 this is no longer the case for most cars. Hyundai and Kia are nearly unique among  
8 automobile manufacturers in failing to install vehicle immobilizers in most of their  
9 cars. This is not because the technology is somehow beyond them—in fact,  
10 Hyundai and Kia vehicles sold in the European and Canadian markets incorporate  
11 vehicle immobilizers, because regulations there expressly require them. It is only  
12 in the United States that Hyundai and Kia have decided to trade public safety for  
13 profits.

14       5. The difference between the proportion of Hyundai and Kia vehicle  
15 models with immobilizers compared to all other manufacturers is staggering: only  
16 *26 percent* of 2015-model Hyundai and Kia vehicles in the U.S. had immobilizers,  
17 compared to *96 percent* of vehicles from all other manufacturers.<sup>1</sup>

24  
25  
26       1 “Hyundai and Kia theft losses,” 38 HLDI BULLETIN 28 (December 2021), available at:  
[https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi\\_bulletin\\_38-28.pdf](https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi_bulletin_38-28.pdf).

1       6.     Hyundai's and Kia's decisions to put cost-savings and profits over  
2 public safety have had devastating consequences for the City of Cleveland and its  
3 residents, as in other cities. The failure of Defendants to install an industry-  
4 standard anti-theft device, notwithstanding decades of academic literature and  
5 research supporting the deterrent effects of such technology, has opened the  
6 floodgates to vehicle theft, crime sprees, reckless driving, and public harm.  
7

9       7.     This epidemic started in Milwaukee before spreading nationwide.<sup>2</sup> By  
10 June 2021, the Milwaukee Police Department reported that the theft of Hyundai  
11 and Kia vehicles had increased by 2,500% since the previous year, with an average  
12 of 16 cars being stolen per day.

14       8.     The same trend is evident in Cleveland, where, for example, there  
15 were 475 thefts of Hyundai and Kia vehicles in December 2022 alone.<sup>3</sup> For  
16 January 2023, data from the Cleveland Police Department reflect a 622.22%  
17 increase in Hyundai and Kia vehicle thefts, compared to January 2022.<sup>4</sup>  
18

20       9.     Vehicle theft is not only a property crime affecting vehicle owners,  
21 but may also present a grave threat to public safety. Vehicle theft goes hand in  
22 hand with reckless driving, which in turn results in injuries and death. It results in  
23

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24       <sup>2</sup> "Police warn of rise in car thefts of two particular car brands. Is yours one of them?" The  
25 Cleveland Enquirer (June 28, 2022), available at:  
26 <https://www.Cleveland.com/story/news/2022/06/28/police-report-rise-car-thefts-certain-car-brands/7762399001/>.

<sup>3</sup> See Exh. A.

<sup>4</sup> *Id.*

1 increased violence, as many car owners are unlikely to part with their vehicles  
2 willingly. It consumes scarce law enforcement and emergency resources and  
3 deprives the public of safe streets and sidewalks.  
4

5       10. The skyrocketing rate of vehicle theft in Cleveland has drastically  
6 affected city and police resources. Cleveland residents are subjected to increasingly  
7 dangerous conditions on their city streets, as car thieves (many of them teenagers)  
8 taking advantage of Hyundai's and Kia's failures engage in reckless driving,  
9 endangering Cleveland residents and their property.  
10  
11

12       11. Defendants' conduct has created a public nuisance that could have  
13 been avoided, had they simply followed industry-wide standards and installed  
14 immobilizer devices in all their vehicles.  
15

16       12. To date, Hyundai and Kia refuse to accept responsibility, forcing  
17 municipalities across the country, including Cleveland, to divert funds and risk  
18 officer safety to combat the rising burden caused by increased Hyundai and Kia  
19 vehicle theft and reckless driving on city streets.  
20

## 21                   **II. JURISDICTION AND VENUE**

22

23       13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §  
24 1332(a), as the amount in controversy exceeds \$75,000 and there is complete  
25 diversity between the Parties. The City of Cleveland is a home-rule municipal  
26 corporation and regarded as a citizen of the state of Ohio, for the purposes of

1 diversity jurisdiction. *Bullard v. City of Cisco, Texas*, 290 U.S. 179, 187 (1933).

2 Defendants are citizens of California, where they are headquartered and  
3 incorporated.

4 14. This court has general personal jurisdiction over Defendants as they  
5 are incorporated and headquartered in the state of California.  
6

7 15. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391  
8 because Defendants are citizens of California, incorporated in this State with  
9 headquarters located in this district.  
10

### 11                   **III. PARTIES**

#### 12                   **A. Plaintiff**

13 16. Plaintiff, the City of Cleveland (the “City” or “Cleveland”) is a  
14 municipal corporation organized and chartered pursuant to Article XVIII, Section 7  
15 of the Ohio Constitution. The City has all the powers of local self-government and  
16 all other powers possible for a city to have under the Constitution of the state of  
17 Ohio, and the laws of the state of Ohio, which are exercised in the manner  
18 prescribed by the Charter of the City of Cleveland. The City is located in  
19 Cuyahoga County, Ohio, and has approximately 368,000 residents. The City’s  
20 principal offices are located at City Hall, 601 Lakeside Ave E, Cleveland, Ohio,  
21 44114.  
22  
23  
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26

1                   **B. Defendants**

2                  17. Defendant **Hyundai Motor America** (“HMA” or “Hyundai”), is a  
3 manufacturer and distributor of new motor vehicles under the Hyundai brand and  
4 is incorporated and headquartered in the state of California. Its principal place of  
5 business is located at 10550 Talbert Avenue, Fountain Valley, California. HMA  
6 distributes, markets, leases, warrants, and oversees regulatory compliance and  
7 warranty servicing of Hyundai brand vehicles through a network of over 800  
8 dealers throughout the United States from its headquarters in California.  
9

10                 18. Defendant **Kia America, Inc.** (“KA” or “Kia”), is a manufacturer and  
11 distributor of new motor vehicles under the Kia brand and is incorporated and  
12 headquartered in the state of California. Its principal place of business is located at  
13 111 Peters Canyon Road, Irvine, California. KA markets, leases, warrants, and  
14 oversees regulatory compliance and warranty servicing of Kia-brand vehicles  
15 through a network of over 700 dealers throughout the United States from its  
16 headquarters in California.  
17

18                   **IV. THE KIA HYUNDAI THEFT WAVE**

19                 A. **Without Immobilizers, Defendants’ Vehicles Are Sitting  
20 Ducks**

21                 19. As described further below, Kia and Hyundai have chosen to flout the  
22 industry standard of utilizing an engine immobilizer in many of their vehicles,  
23 which made those vehicles more susceptible to theft. Specifically, upon  
24

information and belief, at all relevant times, Defendants designed, manufactured, distributed, and sold the following automobile models (“Susceptible Vehicles”) without engine immobilizers between 2011 and 2021: Hyundai Accent, Elantra, Kona, Palisade, Santa Cruz, Santa Fe, Sonata, Tucson, Veloster, and Venue; and the Kia Cadenza, Forte, K900, Optima, Rio, Sedona, Seltos, Sorento, Soul, and Sportage. As would-be car thieves learned of this susceptibility, the incidence of theft for susceptible models increased, relative to other models, from 2015 to 2020.<sup>5</sup>

20. However, this progression became an explosion in late 2020, when a group of teenagers began posting “how-to” videos detailing how simple it was to steal susceptible Kias and Hyundais.<sup>6</sup> That group, the “Kia Boyz,” became notorious for posting videos of youth engaging in reckless driving after stealing Kias and Hyundais.<sup>7</sup> As the videos detailed, an individual need only remove the plastic cowl under the steering column and use a USB cable to start these unsecure cars.

<sup>5</sup> <https://www.nicb.org/sites/files/2017-11/2015-Hot-Wheels-Report.pdf>;  
<https://www.nicb.org/sites/files/2017-11/2016-Hot-Wheels-Report.pdf>;  
<https://www.nicb.org/sites/files/2017-11/2017-Hot-Wheels-Report.pdf>;  
<https://www.nicb.org/sites/files/2017-11/2018-Hot-Wheels-Report.pdf>; and  
<https://www.nicb.org/sites/files/2017-11/2019-Hot-Wheels-Report.pdf>.

<sup>6</sup> <https://www.npr.org/sections/money/2022/08/23/1118457271/someone-stole-my-truck-i-got-a-crash-course-on-the-wild-black-market-for-stolen->.

<sup>7</sup> <https://www.cnbc.com/2022/09/08/tiktok-challenge-spurs-rise-in-thefts-of-kia-hyundai-cars.html>.

1       21. What followed was all-too predictable: thefts of Kias and Hyundais  
2 skyrocketed.<sup>8</sup> In the first half of 2021, the number of stolen Kias and Hyundais  
3 increased by more than 30 and 15 times when compared to the same period in 2020  
4 in Milwaukee.<sup>9</sup> This dramatic increase was unique to Kias and Hyundais, which  
5 represented 66% of all cars stolen in that period, compared to only 6% of stolen  
6 cars in 2019.<sup>10</sup><sup>11</sup>  
7  
8

9       22. This trend then spread nationwide. By July 2022, the Cleveland Police  
10 Department were seeing a considerable increase in Hyundai and Kia vehicle  
11 theft.<sup>12</sup>  
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23       <sup>8</sup> <https://www.insideedition.com/videos-show-teens-how-to-steal-certain-kias-and-hyundais-with-only-a-usb-cable-police-warn-amid>.

24       <sup>9</sup> <https://www.kbb.com/car-news/milwaukee-police-report-hyundais-kias-stolen-in-record-numbers/>.

25       <sup>10</sup> <https://www.thetruthaboutcars.com/cars/kia/summer-of-theft-creating-bad-publicity-for-hyundai-kia-44496971>.

26       <sup>11</sup> <https://urbanmilwaukee.com/2021/07/24/two-thirds-of-all-milwaukee-auto-thefts-are-kia-and-hyundai-vehicles/>.

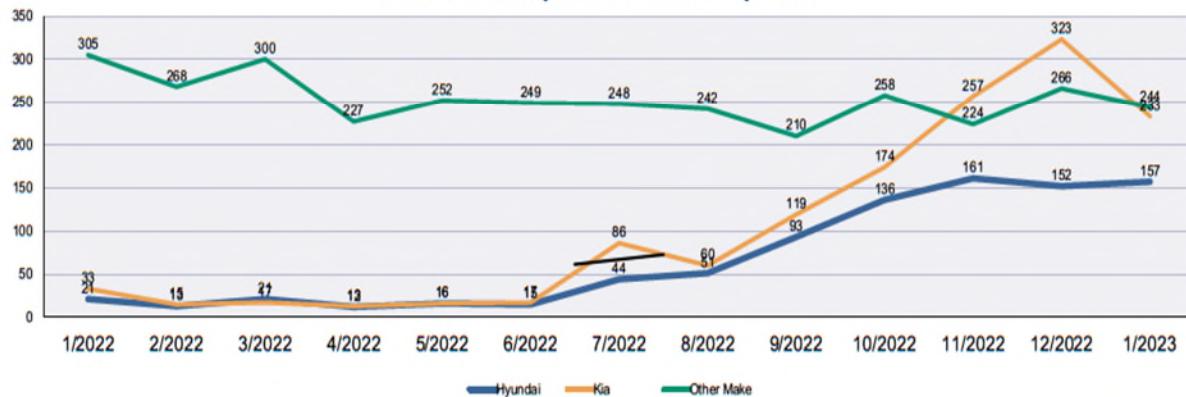
12 Exh. A.



## Stolen Vehicles Citywide City of Cleveland

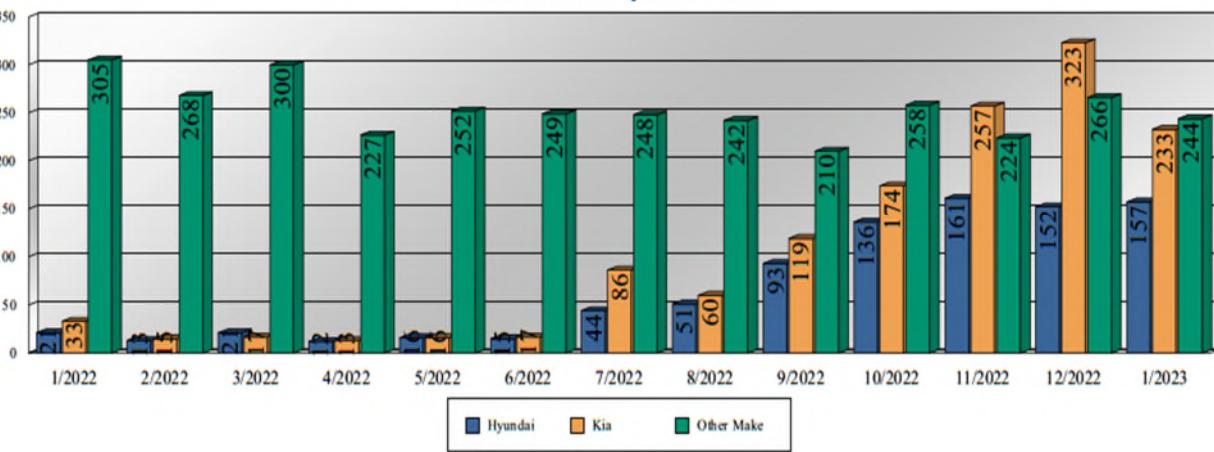
1/1/2022 To 1/30/2023

### Stolen Kia & Hyundai Cars 2022 By Month



23. Between October and December, more than 1,200 Hyundai and Kia vehicles were stolen in Cleveland.<sup>13</sup> For December alone, Hyundais and Kias accounted for approximately 65% of total vehicle theft in the City.

### Stolen Kia & Hyundai Cars



24. The susceptibility of Defendants' vehicles to theft enabled this spiraling epidemic. Defendants' choice to deviate from the industry standard of

<sup>13</sup> *Id.*

utilizing engine immobilizers, placing profits over safety, was both a proximate and but-for cause of this outbreak. As a police sergeant described the problem, Defendants' cars are simply too easy to steal.<sup>14</sup> This presents a risk not only for property damage, but to public safety, as thieves often engage in reckless driving, as well as other dangerous criminal conduct, including robbery and firearm thefts, as Kias and Hyundais have been targeted by thieves seeking weapons (and other valuables) that might have been left in patrons' vehicles.<sup>15</sup> In one instance, a 2017 Hyundai Sonata owned by the Department of Homeland Security was stolen in broad daylight.<sup>16</sup> Inside the Hyundai was a rifle, ammunition, and body armor.<sup>17</sup>

### B. Car Thefts Imperil Public Safety

25. Car thefts imperil public safety. By creating a rash of car thefts, Defendants are responsible for a substantial risk to public safety.

26. This is the conclusion drawn by the National Highway Traffic Safety Administration ("NHTSA"). Operating under what was formerly known as the National Traffic Safety Bureau, NHTSA promulgated Federal Motor Vehicle Safety Standard 114 to reduce the instances of car theft, because "stolen cars

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<sup>14</sup> <https://www.tmj4.com/news/local-news/mpd-hyundai-and-kia-vehicles-too-easy-to-steal-leading-to-spike-in-car-thefts>.

<sup>15</sup> <https://www.jsonline.com/story/opinion/2021/05/21/driven-by-good-will-anonymous-donor-pays-off-milwaukee-womans-stolen-car-debt/5130896001/>.

<sup>16</sup> <https://www.wisconsinrightnow.com/homeland-security-hyundai/>.

<sup>17</sup> *Id.*

1 constitute a major hazard to life and limb on the highways.”<sup>18</sup> NHTSA concluded  
2 that the “evidence shows that cars operated by unauthorized persons are far more  
3 likely to cause unreasonable risk of accident, personal injury, and death than those  
4 which are driven by authorized individuals.”<sup>19</sup> The NHTSA Administrator  
5 concluded that “a reduction in the incidence of auto theft would make a substantial  
6 contribution to motor vehicle safety,” by reducing both injuries and deaths to  
7 would-be car thieves, and by “protect[ing] the many innocent members of the  
8 public who are killed and injured by stolen cars each year.”<sup>20</sup>

12. Sadly, the reverse is true as well. An *increase* in the incidence of  
13 automobile theft results in a substantial decrease in public safety. Defendants’  
14 pursuit of profits over theft-prevention led to a meteoric rise in automobile thefts,  
15 and the concomitant threats to public safety. Car theft results in reckless driving,  
16 which poses a risk to both the operators of the stolen vehicle and any lawful users  
17 of the public thoroughfare who are unfortunate enough to cross paths.

20. Reckless driving threatens the comfortable enjoyment of life, health,  
21 and safety of the public within Cleveland. This is particularly true with the current  
22 crime wave. Distinct from many instances of car theft, where the object is  
23 converting the stolen vehicle, the viral “Kia challenge” typically involves joyriding

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26<sup>18</sup> See 33 Fed. Reg. 6,471 (April 27, 1968).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

1 and then abandoning the stolen vehicles. Far from surreptitiously delivering a car  
 2 to a chop shop under cover of night, the social media phenomenon, made possible  
 3 by Defendants' unsecure vehicles, led to youth posting videos of reckless driving  
 4 during busy hours of the day, abandoning the vehicles after collisions.

5       29. Social media platforms like TikTok and Instagram are rife with  
 6 examples of this dangerous conduct. Videos posted on these platforms highlight  
 7 the very real danger from this phenomenon, including youth joyriding through  
 8 school zones or even through crowds of students, and drivers hitting other cars and  
 9 then running from the scene.<sup>21</sup>

10      30. In Cleveland, this phenomenon has already led to extreme and  
 11 disastrous accidents. In November 2022, police officers responded to a burglary  
 12 alarm at Summit Armory, a gun store, in North Cleveland. When officers arrived,  
 13 they found an abandoned Kia vehicle, previously reported stolen from Cleveland,  
 14 had crashed into the gun store.<sup>22</sup>

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23

24 <sup>21</sup> See e.g., <https://www.instagram.com/p/CVNhjg9D64B/?utm%20medium=copy%20link>;  
<https://www.tiktok.com/@monloww/video/7153012228067773738>;  
<https://www.instagram.com/p/CVNhjg9D64B/?utm%20medium=copy%20link>;  
<https://www.instagram.com/p/CSwsnhfAktd/>; <https://www.instagram.com/p/CTqCaYTANaC/>;  
 and <https://www.instagram.com/p/CVRCcU5AkwT/>.

25 <sup>22</sup> <https://www.wkyc.com/article/news/local/summit-county/vehicle-stolen-cleveland-found-bath-police-department/95-7f112515-2605-434d-8bb4-dfe4dc5d9344>.



31. The following month, a home in Cleveland sustained significant  
11 damage after a stolen Hyundai Elantra crashed into the side of the house.<sup>23</sup> A 25-  
12 year-old woman and her infant were inside the home during the crash and,  
13 fortunately, neither was injured.



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26  
<sup>23</sup> <https://www.wkyc.com/article/news/local/cleveland/car-slams-into-cleveland-home-pictures/95-1198fdb5-86a0-499b-a32a-fafe1437c292>.

1  
2       32. In mid-January 2023, four teenagers in a stolen Hyundai Elantra  
3 attempted to elude police before crashing into a utility pole in the Parma  
4 neighborhood of Cleveland.<sup>24</sup> Three of the individuals apprehended were between  
5 the ages of 17 and 19. Officers also observed a Kia SUV that had been reported  
6 stolen, but the driver of the car was able to get away. Prior to the police chase,  
7 officers observed a group of individuals in the stolen Kia trying to steal another  
8 vehicle in an apartment complex.<sup>25</sup>

9  
10  
11       33. In the last week of January, alone, there were at least three other  
12 stolen car police pursuits in the Greater Cleveland area, two of which ended in  
13 crashes.<sup>26</sup> One of the crashes involved a stolen Kia that drove across four lanes of  
14 traffic, clipping a charter bus carrying members of the Baldwin Wallace University  
15 swim team, and crashing into a retaining wall.<sup>27</sup>

16  
17       34. Also in late January, a man in Cleveland reported that his Hyundai  
18 was stolen. While driving his other car, a Kia Rio, the man spotted his stolen  
19 Hyundai at a Burger King drive thru. When he attempted to block the Hyundai,  
20 two teenagers in the stolen car rammed the man's Kia against the Burger King  
21  
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24       <sup>24</sup> <https://www.wkyc.com/article/news/local/cuyahoga-county/teenagers-crash-stolen-hyundai-cleveland/95-7ab0ff03-3d0e-475e-a26b-7521e3103aa8>.

25       <sup>25</sup> *Id.*

26       <sup>26</sup> <https://www.news5cleveland.com/news/local-news/dash-cam-video-shows-wrong-way-crash-on-i-480-third-stolen-car-pursuit-in-a-week>.

27       <sup>27</sup> <https://fox8.com/news/baldwin-wallace-swim-team-bus-hit-by-stolen-vehicle-police/>.

1 restaurant.<sup>28</sup> Police reported that the incident was part of a three-day crime spree  
 2 involving two shootings within an hour of each other, which the driver of the  
 3 stolen Hyundai helped carry out.<sup>29</sup>



15       35. Another example of this all-too-common tragedy occurred in  
 16 Milwaukee in June 2021, when a sixteen-year-old was killed after he stole a Kia  
 17 Sportage and collided with another car.<sup>30</sup> His two twelve-year-old accomplices  
 18 were also seriously injured, as were three passengers in the car that he struck. The  
 19 images and dashcam footage<sup>31</sup> of this tragedy show how the epidemic of vehicle  
 20 theft imperils the public.

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24 <sup>28</sup> <https://www.cleveland.com/court-justice/2023/02/teens-lodge-stolen-hyundai-in-burger-king-drive-thru-on-two-wheels-after-owner-confronts-them.html>.

25 <sup>29</sup> *Id.*

26 <sup>30</sup> <https://www.wisn.com/article/teen-car-theft-suspect-killed-in-head-on-crash-5-others-injured/36741640>.

<sup>31</sup> <https://www.wisn.com/article/dashcam-video-shows-fatal-crash-moments-after-police-cancel-pursuit/37955614>.

1       36. Yet another tragic example occurred in Buffalo in October 2022,  
2 when a 16-year-old driving a stolen Kia caused a high-speed rollover crash that  
3 killed four teenage passengers.<sup>32</sup>



14       37. The act of car theft creates a substantial risk of physical harm, in the  
15 event that the would-be thief is confronted in the act. In January 2023, a Cleveland  
16 man reported that a Hyundai Sonata struck his car mirror and did not stop. When  
17 the man followed the Hyundai, the driver and passenger of the Hyundai got out  
18 with guns and began shooting at him.<sup>33</sup> Police found nine bullet casings in the  
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25       <sup>32</sup> “Teenage driver charged in crash of stolen car that killed 4,” Seattle Times (Nov. 22, 2022),  
26 available at: <https://www.seattletimes.com/business/teenage-driver-charged-in-crash-of-stolen-car-that-killed-4/>.

27       <sup>33</sup> <https://www.cleveland.com/court-justice/2023/02/teens-lodge-stolen-hyundai-in-burger-king-drive-thru-on-two-wheels-after-owner-confronts-them.html>.

1 street and bullet holes in the front window of a nearby home and in a car parked on  
2 the street.<sup>34</sup>  
3

4       38. This risk to bystanders was also tragically demonstrated in October  
5 2021 in Wisconsin, when a woman who attempted to prevent the theft of a  
6 Hyundai was killed at the scene.<sup>35</sup>  
7

8       39. Further, the act of car theft creates a substantial risk of physical harm  
9 to pedestrian bystanders. On February 8, 2023, a stolen Hyundai involved in a  
10 high-speed chase in Baltimore crashed into a car and a 54-year-old pedestrian.<sup>36</sup>  
11 Both cars careened into a nearby building, which collapsed on top of the vehicles  
12  
13  
14



25       34 <https://www.cleveland.com/court-justice/2023/02/teens-lodge-stolen-hyundai-in-burger-king-drive-thru-on-two-wheels-after-owner-confronts-them.html>.  
26

35 <https://www.cbs58.com/news/13-year-old-charged-as-adult-in-deadly-wauwatosa-hit-and-run>.

36 <https://www.msn.com/en-us/news/crime/footage-shows-fatal-crash-into-baltimore-building-collapse-following-police-pursuit-of-stolen-car/ar-AA189TDg>.

1 and the pedestrian.<sup>37</sup> The pedestrian was pronounced dead at the scene, and five  
2 occupants of the two cars were injured.<sup>38</sup>  
3

4 40. Cleveland has seen an especially high rate of Hyundai and Kia vehicle  
5 thefts, has incurred costs associated with these thefts, and has been unable to abate  
6 the nuisance in the absence of action by Defendants.  
7

8 41. As a result of the skyrocketing rate of theft of Hyundai and Kia  
9 vehicles nationwide, at least two major insurance companies are refusing to write  
10 policies for certain Hyundai and Kia models in major cities including Cleveland,  
11 thereby increasing the potential number of uninsured motorists on the road.<sup>39</sup>  
12

13 42. The amount of time spent responding to rampant thefts puts additional  
14 stress on the City of Cleveland's resources. For January and February 2023, the  
15 median time officers spent from the call time to clear time of a single reported  
16 vehicle theft is 139 minutes, or nearly two and a half hours.<sup>40</sup> At the current rate of  
17 calls received related to vehicle theft in 2023, the Cleveland Police Department is  
18 on track to surpass the more than 2,814 vehicle theft calls it received in 2022.  
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25 <sup>37</sup> *Id.*  
26 <sup>38</sup> *Id.*

<sup>39</sup> <https://www.cnn.com/2023/01/27/business/progressive-state-farm-hyundai-kia/index.html>; see also <https://www.cleveland.com/business/2023/01/progressive-state-farm-halt-new-car-insurance-policies-for-high-theft-models-of-kia-and-hyundai.html>.

<sup>40</sup> See Exh. B.

GTMV Calls (Median) Time From Call to Officer Clear Time													Only GTV Calls with a Call time, Arrive Time and Clear Time, Regardless of Disposition					
By Month																		
1/1/2022 - 2/23/2023																		
	1	2	3	4	5	6	7	8	9	10	11	12	Total	1	2	Total	<b>Total</b>	
Early 1man	137	115	126	122	118	127	133	144	127	128	134	145	132	146	140	142	134	
	94	82	103	72	81	90	95	102	139	163	181	223	1425	200	125	325	1750	
Early 2man	107	91	270	484	138	141	156	201	126	147	100	131	136	167	68	105	136	
	11	11	4	2	13	9	16	4	15	20	16	24	145	16	7	23	168	
Late 1man	140	143	139	142	113	118	145	146	129	142	130	129	134	145	129	142	135	
	77	44	85	53	63	58	73	77	87	116	133	125	991	148	69	217	1208	
Late 2man	88	94	124	152	142	115	145	296	94	130	125	115	124	83	119	119	124	
	17	9	7	7	15	11	13	10	7	23	16	21	156	15	7	22	178	
Not Patrol	125	86	63	165	160	186	156	157	96	130	120	134	125	126	101	119	121	
	11	10	7	6	6	5	2	3	9	10	15	13	97	16	15	21	128	
Total	135	117	132	141	123	125	142	147	124	133	130	135	132	145	127	139	133	
	210	156	206	140	178	173	199	196	257	332	361	406	2814	395	223	618	3432	

43. To date, Defendants' responses have shown a continued prioritization of profits over safety. Both companies have refused to implement a recall to install engine immobilizers in the Susceptible Vehicles, initially only offering wheel locks for municipalities to distribute.<sup>41</sup> Unfortunately, the wheel locks are not effective; residents who use them have still had their cars stolen, and in some instances, connected to shootings.<sup>42</sup>

44. More recently, Hyundai has begun rolling out a “software update” rather than installing immobilizers.<sup>43</sup> Kia has planned a similar software update,

<sup>41</sup> <https://www.jsonline.com/story/news/crime/2021/07/19/kia-hyundai-handing-out-free-steering-wheel-locks-through-end-year/7963950002/>.

<sup>42</sup> <https://www.fox6now.com/news/milwaukee-womans-kia-stolen-twice>.

<sup>43</sup> <https://www.safercar.gov/press-releases/hyundai-kia-campaign-prevent-vehicle-theft>.

1 yet this software-only approach is too little, too late, and many susceptible vehicles  
 2 will not even be included in the update.<sup>44</sup>  
 3

4 45. Upon information and belief, rather than install an immobilizer, the  
 5 software update will double the length of the theft alarm sound and add a new logic  
 6 check to the vehicles' on-board computers. This update is a late half-measure at  
 7 best and will be useless in many common scenarios such as parking and waiting  
 8 for a passenger to run an errand or picking up a child from after-school activities.  
 9 Unless the doors were recently unlocked using a key fob, the Engine Control Unit  
 10 will not turn on. This software-based approach is yet another example of  
 11 Defendants pursuing profits over safety. While less expensive than installing  
 12 engine immobilizers, those savings come at the expense of efficacy and usability,  
 13 not to mention public safety.

14 46. The rollout of the software update has just begun, far too late to  
 15 prevent the nuisance that the Susceptible Vehicles created and the expenses that  
 16 Cleveland has incurred and continues to incur. The update's efficacy has not been  
 17 tested in the real world,<sup>45</sup> and no one knows how many consumers will even opt in  
 18

---

23  
 24 <sup>44</sup> *Id.*

25 <sup>45</sup> Already, Susceptible Vehicles have been stolen after receiving the update. See  
 26 [https://www.reddit.com/r/Hyundai/comments/119jlts/well\\_it\\_happened\\_my\\_17\\_elantra\\_se\\_was\\_stolen\\_and/?utm\\_source=share&utm\\_medium=ios\\_app&utm\\_name=iossmf](https://www.reddit.com/r/Hyundai/comments/119jlts/well_it_happened_my_17_elantra_se_was_stolen_and/?utm_source=share&utm_medium=ios_app&utm_name=iossmf). Additional anecdotes suggest that the update is not reliable. See [https://www.reddit.com/r/Hyundai/comments/11h0frt/alarm\\_ts�\\_computer\\_upgrade\\_my\\_terrible\\_experience/](https://www.reddit.com/r/Hyundai/comments/11h0frt/alarm_ts�_computer_upgrade_my_terrible_experience/).

1 to get it. But there are facial defects with this approach. Upon information and  
2 belief, this update will not cover all Susceptible Vehicles—even newer models. For  
3 vehicles not covered by the update, Defendants are offering nothing more than  
4 wheel locks, or rebates for already purchased wheel locks.

5       47. What's more, the work-around substantially reduces the usability of  
6 the vehicles. This logic could be triggered by letting a passenger out of a car to run  
7 an errand and then starting the car again. In addition, susceptible vehicle owners  
8 have already experienced issues with after-market remote start systems, rendering  
9 the vehicles functionally inoperable. As one owner recently posted:

10           “I have the update. I also have an after market remote start.  
11           The remote start will set off my car alarm. You can turn  
12           the alarm off, but it will beep periodically and the  
13           headlights flash until you turn the vehicle off.”<sup>46</sup>

14       48. Prior to this software update, Hyundai callously turned this crisis of its  
15 own making into a source of revenue, selling security kits for \$170, plus the cost of  
16 installation.<sup>47</sup> Defendants could have, and should have, initially included a fob-  
17 integrated engine immobilizer, consistent with the industry standard. Even after the  
18 cars were sold, Defendants could have implemented a mandatory recall. Instead,  
19 Hyundai chose to make money off a crime wave it caused.

---

20  
21  
22  
23  
24  
25  
26       46 [https://www.reddit.com/r/kia/comments/11303m4/hyundai\\_and\\_kia\\_release\\_software\\_update\\_to/?sort=new](https://www.reddit.com/r/kia/comments/11303m4/hyundai_and_kia_release_software_update_to/?sort=new).

1       49. By electing profits over safety and deviating from the industry  
2 standard by not including engine immobilizers as a standard safety feature,  
3 Defendants created and maintained a public nuisance.  
4

5           **C. Measures to Prevent Vehicle Theft Have Existed for Over a**  
6 **Century**

7       50. Since the dawn of gasoline-powered automobiles at the turn of the  
8 nineteenth century, consumers have needed effective ways to keep their vehicles  
9 from being stolen. Thus, efforts to prevent theft or unauthorized access to  
10 automobiles have tracked vehicle development. In 1919, St. George Evans and E.  
11 B. Birkenbeuel invented the first formation of an electric immobilizer/vehicle  
12 security system.<sup>48</sup>  
13

14       51. Labeled the “Automobile-Theft Preventer” the purpose of Evans and  
15 Birkenbeuel’s invention was relatively straightforward: “to provide a means for  
16 automatically signaling an attempt to move an automobile by unauthorized  
17 persons; and to provide a means for locking the electric circuit open, in which case  
18 it will be impossible to move the car by its own power.”<sup>49</sup>  
19

20       52. Evans and Birkenbeuel’s immobilizer/alarm system consisted of a 3x3  
21 switch panel that connected to the car’s battery, horn, and ignition. Upon exiting  
22 his vehicle, a driver could turn a few switches on the panel to different positions  
23

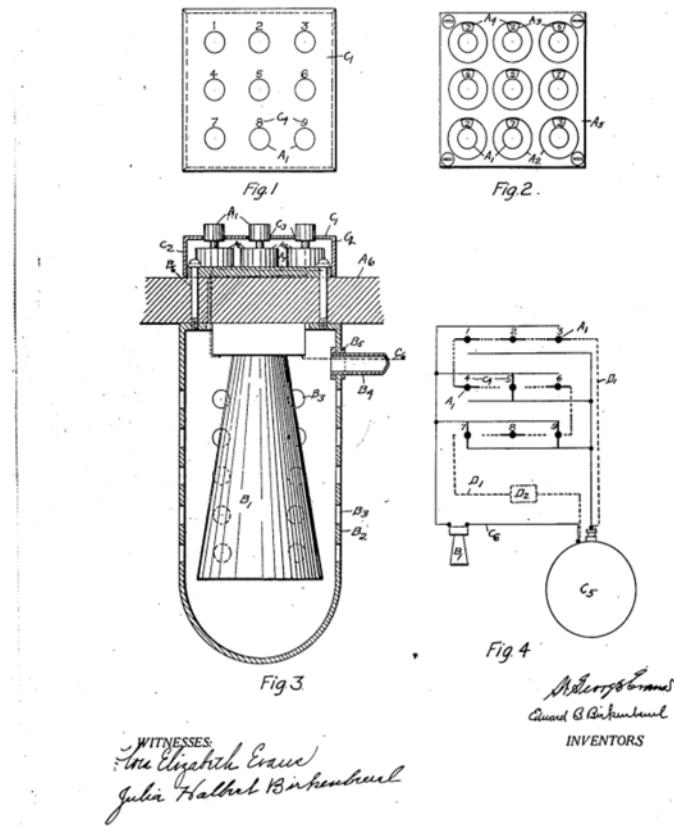
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24  
25  
26       <sup>48</sup> U.S. Patent No. 1,300,150 (issued Apr. 8, 1919).

<sup>49</sup> *Id.* at ¶¶ 14–20.

1 that, until released, would divert electricity to the horn instead of the ignition  
 2 should an unauthorized user attempt to start the vehicle.  
 3

4 ST. GEORGE EVANS & E. B. BIRKENBEUEL,  
 AUTOMOBILE THEFT PREVENTER,  
 APPLICATION FILED MAR. 5, 1918.  
 5 1,300,150. Patented Apr. 8, 1919.



20 Sketches for Evans & Birkenbeuel's "Automobile Theft Preventer"

21 53. The timing of the first immobilizer patent coincided with Congress's  
 22 enactment of the National Motor Vehicle Theft Act, 18 U.S.C. § 2311 *et seq.*,  
 23 which made the interstate transportation of stolen vehicles a federal crime. The law  
 24 passed, in part, to respond to the growing number of automobile thefts around the  
 25 country, especially in midwestern cities.  
 26

1       54. As time passed and technology advanced, the United States pursued  
2 further efforts to promulgate vehicle safety standards.  
3

4       55. In 1966, Congress passed the National Traffic and Motor Vehicle  
5 Safety Act (the “Safety Act”), with the aim of administering new motor vehicle  
6 and traffic safety standards.<sup>50</sup> Administration of the Safety Act was overseen by the  
7 newly created Department of Transportation through its sub-agency: NHTSA, f/k/a  
8 the National Traffic Safety Bureau.

9       56. Pursuant to its statutory authority under the Safety Act, NHTSA  
10 promulgated numerous federal motor vehicle safety standards (“FMVSS”). Among  
11 these standards, FMVSS 114<sup>51</sup> requires minimum theft-protection standards for  
12 nearly all passenger vehicles in the United States:

13             S1. *Scope*. This standard specifies vehicle performance  
14 requirements intended to reduce the incident of crashes  
15 resulting from theft and accidental rollaway of motor  
16 vehicles

17             S2. *Purpose*. The purpose of this standard is to decrease  
18 the likelihood that a vehicle is stolen, or accidentally set in  
19 motion.

20             S3. *Application*. This standard applies to all passenger  
21 cars, and to trucks and multipurpose passenger vehicles  
22 with GVWR of 4,536 kilograms (10,000 pounds) or less.  
23             ...

24             S5.1 *Theft Protection*.

---

25       <sup>50</sup> P.L. 89–563, 80 Stat. 718.  
26       <sup>51</sup> 49 C.F.R. § 571.114.

1           S5.1.1 Each vehicle must have a starting system which,  
2 whenever the key is removed from the starting system  
3 prevents:  
4           (a) The normal activation of the vehicle's engine or  
5 motor; and  
6           (b) Either steering, or forward self-mobility, of the  
7 vehicle, or both.

8           ...

9           S5.2.2 Except as specified in S5.2.4, the vehicle must be  
10 designed such that the transmission or gear selection  
control cannot move from the "park" position, unless the  
key is in the starting system.

11       57. The main motivation for creating FMVSS 114 was NHTSA's  
12 recognition "that stolen cars constitute a major hazard to life and limb on the  
13 highways. The evidence shows that stolen cars are far more likely to cause  
14 unreasonable risk of accident, personal injury, and death than those which are  
15 driven by authorized individuals."<sup>52</sup>

16       58. As early as 1966, studies showed "there were an estimated 94,000  
17 stolen cars involved in accidents"—with "18,000 of these accidents result[ing] in  
18 injury to one or more people."<sup>53</sup> Accordingly, NHTSA recognized that "a reduction  
19 of the incident of auto theft would make a substantial contribution to motor vehicle  
20 safety" and "protect the many innocent members of the public who are killed and  
21 22  
23  
24  
25  
26

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<sup>52</sup> 33 Fed. Reg. 83, 6471 (April 27, 1968).

<sup>53</sup> *Id.*

injured by stolen cars each year.”<sup>54</sup> To address this safety risk, which is largely tied to “car thieves who could bypass the ignition lock . . . the agency decided to require a device, which would prevent either self-mobility or steering even if the ignition lock were bypassed.”<sup>55</sup>

59. An engine immobilizer satisfies this requirement, “because it locks out the engine control module if an attempt is made to start the vehicle without the correct key or to bypass the electronic ignition system.”<sup>56</sup> The proposed software update does not appear to satisfy this requirement—as it is not linked to an attempt to start the vehicle without the correct key—and the absence of *any* system not only violates this standard, it created the public nuisance of rampant car theft in Cleveland.

#### **D. The Widespread Adoption of Modern Engine Immobilizers as an Even More Effective Vehicle Theft Deterrent**

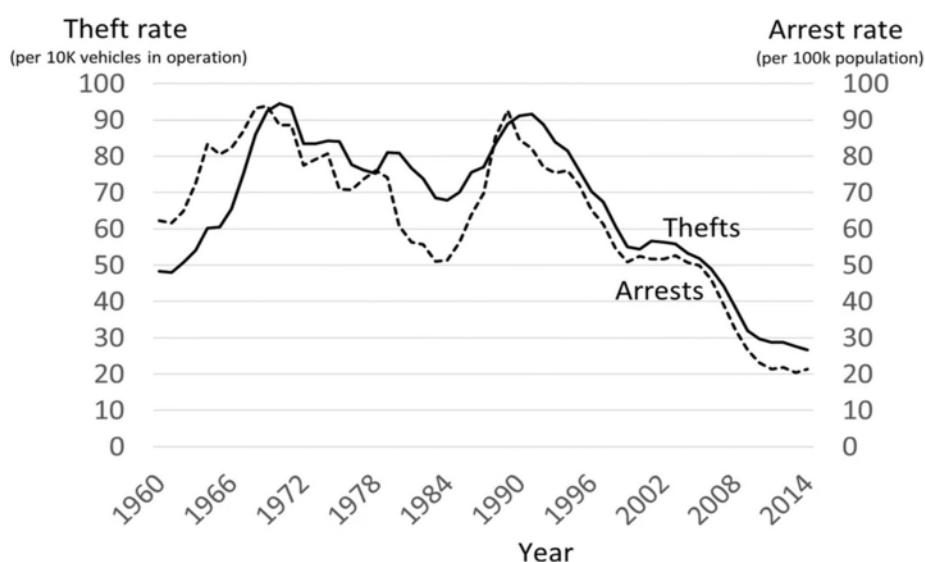
60. In the late 1980s and early 1990s, vehicle theft increased dramatically in the United States.<sup>57</sup> The common method for stealing a car involved bypassing the motor's ignition switch, otherwise known as "hotwiring."

54 *Id.*

<sup>55</sup> <https://www.govinfo.gov/content/pkg/FR-2006-04-07/pdf/06-3358.pdf>; also see 33 Fed. Reg. 6,471, (Apr. 27, 1968).

<sup>56</sup> NHTSA Interpretation GF005229-2 (Sept. 24, 2004).

<sup>57</sup> Anthony Dixon & Graham Farrell, Age-period-cohort effects in half a century of motor vehicle theft in the United States, 9 CRIME SCIENCE 17, 1, 3 (2020).



Vehicle thefts per 10,000 vehicles in operation, and vehicle theft arrests per 100,000 population, 1960-2014<sup>58</sup>

61. To respond to this growing problem, manufacturers began installing  
 passive vehicle immobilizers, which were patented no later than 1993.<sup>59</sup> Unlike  
 Evans and Birkenbeuel's invention nearly 75 years prior, the vehicle immobilizer  
 would render the engine operable only "if the correct key having coded  
 information is used[,]” rather than relying on concealed switches or memorizing  
 keypad combinations.<sup>60</sup>

62. In essence, the vehicle immobilizers of the 1990s worked by checking  
 the "fingerprint" of a car key based on electronic codes the key sends to the  
 vehicle.

58 *Id.* at 2.

59 Int'l Patent Publication No. WO 93/13968 (filed Jan. 7, 1993).

60 *Id.*

1       63. Although the mechanism behind the vehicle immobilizer was more  
 2 intricate than the original 1919 invention, the overall purpose remained the same:  
 3 “to make the vehicle more difficult to steal.”<sup>61</sup>  
 4

5       64. The invention proved successful and, less than five years later, the  
 6 European Union mandated that all new passenger cars from 1998 onward be  
 7 equipped with an electronic engine immobilizer.<sup>62</sup> Similar mandates soon followed  
 8 in Australia, New Zealand, and Canada.

9       65. As engine immobilizers became the industry-standard among  
 10 manufacturers, at least one study in the Netherlands suggested that immobilizers  
 11 “lowered the overall rate of car theft on average by about 40 percent during  
 12 1995-2008.”<sup>63</sup>

#### 16                   **E. Defendants’ Deviation from the Industry Standard**

17       66. At the turn of the 21st century, automatic engine immobilizers were  
 18 considered quintessential anti-theft technology by the majority of car  
 19 manufacturers in America, with the exception of Hyundai and Kia.

20       67. Studies by the Highway Loss Data Institute (“HLDI”) showed “that  
 21 vehicle theft losses decreased significantly after factory-installed passive

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24       61. *Id.*

25       62. Commission Directive No. 95/96/EC, 1995 O.J. (L286) 1, (amending Council Directive  
 26 74/61/EEC to require the installation of immobilizers and alarm systems in motor vehicles  
 beginning in October 1998).

63. Jan C. van Ours & Ben Vollaard, *The Engine Immobiliser: A Non-Starter for Car Thieves*, 126  
 THE ECONOMIC JOURNAL 593, 1264, 1283 (June 2013).

1 immobilizing antitheft devices were introduced.”<sup>64</sup> Specifically, HLDI studies  
 2 between 1996 and 2013 all showed decreases in theft losses for vehicles with  
 3 engine immobilizers studied in those years, including General Motors, BMW,  
 4 Ford, and Nissan.<sup>65</sup> A 2013 HLDI study “found that thieves were sometimes  
 5 targeting the older model years of a vehicle series without immobilizers, such as  
 6 the Honda Civic and Honda Accord.”<sup>66</sup>

7       68. Despite decades of research and findings that immobilizers  
 8 significantly reduced vehicle theft and the consequential public safety risks, “only  
 9 26 percent of Hyundai and Kia” 2015 vehicle models had “passive immobilizers as  
 10 standard equipment, compared with 96 percent of other manufacturers.”<sup>67</sup>

11       69. The staggeringly low percentage of Hyundai and Kia vehicles with  
 12 immobilizers is especially concerning given that, during this same time period,  
 13 Defendants were installing immobilizers in 100% of their models for sale in  
 14 European and Canadian markets, in compliance with applicable laws there.<sup>68</sup>

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21       64 “Hyundai and Kia theft losses”, 38 HLDI BULLETIN 28 (December 2021), available at:  
 22            [https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi\\_bulletin\\_38-28.pdf](https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi_bulletin_38-28.pdf).

23       65 *Id.*

24       66 *Id.*

25       67 *Id.*

26       68 Hyundai first began exporting its cars to parts of Europe, the United Kingdom, and Canada  
 27 between 1978 and 1984. “Over 50 years of progress: the history of Hyundai” Press Release,  
 28 04.06.2019, available at <https://www.hyundai.news/eu/articles/press-releases/over-50-years-of-progress-the-history-of-hyundai.html>. Similarly, Kia vehicles were introduced into European  
 29 and Canadian markets in the 1990s.

1       70. Nor are Defendants unfamiliar with the benefits of installing  
 2 immobilizers in the American market. In March 2007, Hyundai requested an  
 3 exemption from particular NHTSA vehicle theft prevention standards for its 2008  
 4 Hyundai Azera line “based on the installation of an antitheft device” for the vehicle  
 5 line that would be “at least as effective as th[e] GM and Ford [immobilizer]  
 6 devices” in reducing vehicle theft.<sup>69</sup> Yet, until the last year or so, Hyundai and Kia  
 7 only offered immobilizers in their premium, more expensive, model lines. This  
 8 decision only compounds the harms on low-income communities.<sup>70</sup> Those without  
 9 resources to afford such models are more likely to live in areas with higher crime  
 10 rates and are likely less able to pay for alternative transportation or for the cost of  
 11 repairing a recovered vehicle.

16       71. Based on the above, Defendants’ decision not to install the simple and  
 17 highly effective immobilizer in the Susceptible Vehicles between 2011 and 2021,  
 18 in contrast to all other car manufacturers having installed immobilizers in 96% of  
 19 their vehicles, has led to a reasonably foreseeable car theft epidemic that is  
 20 plaguing Cleveland.

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23       <sup>69</sup> 72 Fed. Reg. 138, 39,662 (July 19, 2007); *see also* 75 Fed. Reg. 1,447 (NHTSA notice  
 24 granting an identical exemption for the Kia Amanti vehicle line beginning in model year 2009  
 25 based on Defendant Kia’s representation that the immobilizer installation for that specific  
 model should substantially reduce theft rates).

26       <sup>70</sup> <https://fortune.com/2022/09/22/hyundai-kia-cars-stealing-hack-thieves/> (HLDI Senior VP Matt  
 Moore notes that “Many of the vulnerable Hyundais and Kias are often bought by lower-  
 income people” because those cars “are relatively inexpensive vehicles when purchased  
 new[.]”).

## **V. CAUSES OF ACTION**

## **COUNT ONE — COMMON LAW ABSOLUTE PUBLIC NUISANCE**

72. The City incorporates each preceding paragraph as though set forth fully herein.

73. A “public nuisance” is an unreasonable interference with a right common to the general public, including the rights to public health and public safety.

74. Defendants' conduct constitutes a public nuisance and, if unabated, will continue to threaten the safety, welfare, peace, comfort, and sense of security of the City and its residents. *See Restatement (Second) of Torts § 821B.*

75. Defendants have created and maintained a public nuisance by manufacturing and distributing automobiles that are dangerously susceptible to theft, thus interfering with the public safety, health, and welfare in Cleveland. Cleveland and its residents have a common right to be free from such conduct and to be free from conduct that creates a disturbance and reasonable apprehension of danger to person and property.

76. Defendants' conduct has directly caused a severe disruption of public order and safety. Defendants' conduct is ongoing and continues to produce permanent and long-lasting damage.

1       77. Further, Defendants' conduct substantially interferes with the public's  
2 right to safe and reasonable access to public thoroughfares. Defendants' conduct has  
3 created an unlawful obstruction or impediment to the flow of municipal transit  
4 vehicles and public traffic.

5       78. The public nuisance is an *absolute* public nuisance because  
6 Defendants' nuisance creating conduct was intentional and violated FMVSS 114,  
7 which established specific legal requirements for the protection of others.

8       79. FMVSS 114 requires automobiles to have a starting system which,  
9 whenever the key is removed from the starting system prevents “[e]ither steering, or  
10 forward self-mobility, of the vehicle, or both” and for vehicles to be designed “such  
11 that the transmission or gear selection control cannot move from the ‘park’ position,  
12 unless the key is in the starting system.”

13       80. As alleged above, nearly all cars in the United States satisfy FMVSS  
14 114 through the installation of an engine immobilizer. Defendants' failure to include  
15 an engine immobilizer, or a substitute system capable of satisfying FMVSS 114,  
16 violates that law.

17       81. Defendants know that their conduct has caused an increase in vehicle  
18 theft that has had and will continue to have a detrimental effect on the public welfare,  
19 safety, peace, comfort, and convenience of Cleveland and Cleveland's residents.

1       82. Defendants had initial control over the manufacturing of the  
2 Susceptible Vehicles and their shipping of automobiles to Cleveland. Defendants  
3 continued to maintain control over the conduct through the ability, and failure, to  
4 implement a recall to remediate the susceptibility.

5       83. It was reasonably foreseeable that Defendants' actions and omissions  
6 would result in the public nuisance and harm to Cleveland.

7       84. Based on Defendants' intentional and unreasonable actions and their  
8 special position in understanding the decades of literature supporting the deterrent  
9 effects of engine immobilizers, without Defendants' actions, vehicle theft in  
10 Cleveland would not have become so widespread, and the enormous public safety  
11 issues that now exist would have been averted.

12       85. The public nuisance created by Defendants' actions is substantial and  
13 unreasonable. Defendants' actions have caused and continue to cause significant  
14 harms to Cleveland and Cleveland's community. The harm inflicted outweighs any  
15 offsetting benefit.

16       86. As a direct and proximate result of Defendants' conduct, Cleveland has  
17 suffered and will continue to suffer economic damages, including significant  
18 expenditures for police, emergency, health, prosecutions, corrections, youth  
19 rehabilitative services, and other services.

1       87. As a direct and proximate result of Defendants' tortious conduct,  
2 Cleveland has suffered and will continue to suffer stigma damage and damage to its  
3 proprietary interests, including reduced tax revenues attributable to property value  
4 declines caused by increases in property crime rates and stigma damage.

5       88. The nuisance created by Defendants' conduct is abatable.

6       89. Defendants' conduct has affected and continues to affect Cleveland's  
7 community, and Cleveland will continue to incur economic losses until the nuisance  
8 is abated.

9       90. Defendants knew or had reason to know that their conduct would create  
10 a public nuisance. Defendants knew or had reason to know that their conduct was  
11 interfering with the public right to public safety and/or that the interference with  
12 public safety caused by easier vehicle theft was substantially certain to result from  
13 their conduct. Defendants knew or had reason to know that the installation of engine  
14 immobilizers successfully decreased the rate of car theft by as much as 40%.

15       91. Each Defendant is liable for creating the public nuisance because the  
16 intentional and unreasonable and/or unlawful conduct of each Defendant was a  
17 substantial factor in producing the public nuisance and harm to Cleveland.

18       92. By intentionally foregoing the installation of engine immobilizers in the  
19 Susceptible Vehicles, Defendants directly facilitated the rapid increase in vehicle  
20 theft and, with it, the public nuisance affecting Cleveland.

1       93.    Hyundai and Kia could have avoided all this by installing engine  
2       immobilizers at the time of manufacture for as little as \$200 per device.  
3

4       94.    Defendants' misconduct alleged in this case does not concern a  
5       discrete event or discrete emergency of the sort a political subdivision would  
6       reasonably expect to occur and is not part of the normal and expected costs of a  
7       local government's existence. The City alleges wrongful acts which are neither  
8       discrete nor of the sort a local government can reasonably expect.  
9

10      95.    Cleveland has incurred expenditures for special programs over and  
11     above its ordinary public services.  
12

13      96.    Cleveland has suffered, and will continue to suffer, unique harms as  
14     described above, which are different in kind and degree to the harms suffered by  
15     Ohio citizens at large. These are harms that can only be suffered by Cleveland.  
16

17      97.    Cleveland requests an order providing for abatement of the public  
18     nuisance that Defendants have created or assisted in the creation of; for  
19     compensation for the economic loss suffered as a result of that nuisance; and  
20     injunctive relief. Cleveland does not seek damages for death, physical injury to  
21     person, emotional distress, or physical damage to property.  
22

23                   **COUNT TWO — COMMON LAW QUALIFIED PUBLIC NUISANCE**  
24

25      98.    The City of Cleveland incorporates each preceding paragraph as though  
26     fully set forth herein.

1       99. Defendants have created and maintained a public nuisance by  
2 manufacturing and distributing automobiles that are dangerously susceptible to theft,  
3 thus interfering with the public health, welfare, and safety in Cleveland. Cleveland  
4 and its residents have a common right to be free from such conduct and to be free  
5 from conduct that creates a disturbance and reasonable apprehension of danger to  
6 person and property.

9       100. The public nuisance is a *qualified* public nuisance because Defendants  
10 negligently engaged in conduct or omissions which endanger or injure the health,  
11 safety, or comfort of the public in Cleveland.

13       101. Defendants had a duty to exercise ordinary care and/or reasonable  
14 care in the design, research, development, manufacture, testing, sale, and  
15 distribution of their vehicles into the stream of commerce, including a duty to  
16 exercise care to assure that the vehicles were safe and equipped with industry-  
17 standard anti-theft measures.

20       102. At all times relevant to this litigation, Defendants knew or, in the  
21 exercise of reasonable care, should have known of the hazards and dangers of  
22 foregoing installation of engine immobilizers in the Susceptible Vehicles and  
23 specifically, the increased risk of vehicle theft and public harm.

25       103. Accordingly, at all times relevant to this litigation, Defendants knew  
26 or, in the exercise of reasonable care, should have known that the omission of an

engine immobilizer in the Susceptible Vehicles could cause Cleveland's injuries and thus created a dangerous and unreasonable risk of injury to Cleveland.

104. As such, Defendants, by action and inaction, representation and omission, breached their duty and failed to exercise reasonable care, and failed to act as a reasonably prudent person and/or company would act under the same circumstances in the design, research, development, manufacture, testing, sale, and distribution of their vehicles, in that Defendants manufactured and produced vehicles that fell below minimum, industry-standard security measures.

105. Each Defendant is liable for creating the public nuisance because the intentional and unreasonable and/or unlawful conduct of each Defendant was a substantial factor in producing the public nuisance and harm to Cleveland.

106. As a proximate result of Defendants' wrongful acts and omissions, Cleveland has incurred economic damages, including significant expenditures for police, emergency, health, prosecutions, corrections, youth rehabilitative services, and other services. The City does not seek damages for death, physical injury to person, emotional distress, or physical damage to property.

### COUNT THREE — NEGLIGENCE

107. The City of Cleveland incorporates each preceding paragraph as though set forth fully herein.

1       108. At all times relevant to this litigation, Defendants had a duty to act as  
2 a reasonably careful person would act under the circumstances in the design,  
3 research, manufacture, sale, and distribution of Defendants' products, including the  
4 duty to take all reasonable steps necessary to prevent the manufacture and/or sale  
5 of a product that was so unreasonably capable of being engine-activated and  
6 operated without a key in the starting system.  
7

9       109. Defendants owed Cleveland a duty to not expose the City to an  
10 unreasonable risk of harm.  
11

12       110. Defendants' duties were preexisting.

13       111. At all times relevant to this litigation, Defendants knew or, in the  
14 exercise of reasonable care, should have known of the hazards and dangers of  
15 foregoing installation of engine immobilizers in the Susceptible Vehicles and  
16 specifically, the increased risk of vehicle theft and public harm.  
17

18       112. Accordingly, at all times relevant to this litigation, Defendants knew  
19 or, in the exercise of reasonable care, should have known that the omission of an  
20 engine immobilizer in the Susceptible Vehicles could cause Cleveland's injuries  
21 and thus created a dangerous and unreasonable risk of injury to Cleveland.  
22

24       113. As such, Defendants, by action and inaction, representation and  
25 omission, breached their duty and failed to exercise reasonable care, and failed to  
26 act as a reasonably prudent person and/or company would act under the same

1 circumstances in the design, research, development, manufacture, testing, sale, and  
2 distribution of their vehicles, in that Defendants manufactured and produced  
3 vehicles that fell below minimum, industry-standard security measures.  
4

5       114. Defendants are in control of the design, research, manufacture,  
6 testing, and distribution of the vehicles they distributed to authorized dealerships in  
7 Cleveland.  
8

9       115. Defendants knew and/or should have known that it was foreseeable  
10 that Cleveland would suffer injuries as a result of Defendants' failure to exercise  
11 reasonable care in the manufacturing and sale of Defendants' vehicles, particularly  
12 given Defendants' recognition as early as 2007 that engine immobilizers were an  
13 effective deterrent in preventing vehicle theft.  
14  
15

16       116. Defendants were negligent in failing to monitor and guard against  
17 third-party misconduct and enabled such misconduct.  
18

19       117. Defendants acted unreasonably in light of what conduct could be  
20 foreseen as a result of their conduct and Defendants' negligence helped to and did  
21 produce, and was a factual and proximate cause, of the economic losses that  
22 Cleveland has suffered, and will continue to suffer.  
23

24       118. Defendants' acts and omissions imposed an unreasonable risk of harm  
25 to others separately and/or combined with the negligent and/or criminal acts of  
26 third parties.

1           119. Cleveland's injuries, harms, and economic losses would not have  
2 occurred absent Defendants' negligent conduct as described herein.  
3

4           120. As a proximate result of Defendants' wrongful acts and omissions,  
5 Cleveland has been injured and suffered economic damages and will continue to  
6 incur expenses in the future, as described herein, including but not limited to  
7 expending, diverting, and increasing resources to address the consequences of  
8 Defendants' conduct in Cleveland's community.

9           121. Defendants engaged in conduct, as described above, that constituted  
10 reckless disregard of Cleveland's rights, being fully aware of the probable  
11 dangerous consequences of the conduct and deliberately failing to avoid those  
12 consequences.

13           122. Defendants' conduct, constituting reckless disregard of Cleveland's  
14 rights, was committed and/or authorized by one or more officers, directors, or  
15 managing agents of Defendants, who acted on behalf of Defendants. Additionally,  
16 or in the alternative, one or more officers, directors or managing agents of  
17 Defendants knew of the conduct constituting reckless disregard of Cleveland's  
18 rights and adopted or approved that conduct after it occurred.; and/or  
19

20           123. Defendants' conduct alleged in this case does not concern a discrete  
21 event or discrete emergency of the sort a political subdivision would reasonably  
22 expect to occur and is not part of the normal and expected costs of a local

1 government's existence. Cleveland alleges wrongful acts which are neither discrete  
2 nor of the sort a local government can reasonably expect occur.  
3

4 124. Cleveland has incurred expenditures for special programs over and  
5 above its ordinary public services.

6 125. Cleveland has suffered an indivisible injury as a result of the tortious  
7 conduct of Defendants.

8 126. The tortious conduct of each Defendant was a substantial factor in  
9 producing harm to Plaintiff.

10 127. Defendants made conscious decisions not to warn or inform the  
11 unsuspecting public, including Cleveland's community or Cleveland. Defendants'  
12 willful, knowing, and reckless conduct, constituting reckless disregard of  
13 Cleveland's rights, including the right to public safety, therefore warrants an award  
14 of aggravated or punitive damages.

15 128. Cleveland is without fault, and injuries to the City and its residents  
16 would not have occurred in the ordinary course of events had Defendants used due  
17 care commensurate to the dangers involved in the manufacture and distribution of  
18 their vehicles.

19 129. Cleveland asserts this Cause of Action as a common law tort claim for  
20 negligence and not as a "product liability claim" as defined in R.C. § 2307.71.  
21 Plaintiff does not seek damages for death, physical injury to person, emotional  
22

1 distress, or physical damage to property, as defined under the Ohio Product  
2 Liability Act.  
3

4 **VI. PRAYER FOR RELIEF**

5 130. Entering an Order that the conduct alleged herein constitutes a public  
6 nuisance under Ohio law;  
7

8 131. Entering an Order that Defendants are jointly and severally liable;

9 132. Entering an Order requiring Defendants to abate the public nuisance  
10 described herein and to deter and/or prevent the resumption of such nuisance;  
11

12 133. Enjoining Defendants from engaging in further actions causing or  
13 contributing to the public nuisance as described herein;

14 134. Awarding equitable relief to fund automobile theft prevention;

15 135. Awarding actual and compensatory damages;

16 136. Awarding reasonable attorneys' fees and costs of suit;

17 137. Awarding pre-judgment and post-judgment interest; and

18 138. Such other and further relief as the Court deems just and proper under  
19 the circumstances.  
20

21 **VII. JURY TRIAL DEMANDED**  
22

23 139. Plaintiff hereby demands a trial by jury.  
24

1 RESPECTFULLY SUBMITTED this 7th day of March, 2023.  
2  
3

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5 By Counsel

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7 Chief Legal Officer

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